

New York's No Surprises Billing Law Needs Reform to Make Health Care More Affordable

As a growing number of high-cost providers abuse the law, New Yorkers are paying higher premiums. Lawmakers can give employers and consumers relief by correcting this in the 2027 FY Budget.

PPGG Part T: An Important Step to Making Health Care More Affordable

- **It's time to reform New York's Surprise Billing Law.** Enacted in 2014, the law was designed to protect consumers from out-of-network emergency and surprise bills and establish an Independent Dispute Resolution (IDR) process to resolve payment disputes between health plans and providers. While the law has shielded millions of patients from unexpected medical costs, excessive IDR payouts are making health care more expensive.
- **The law is driving costs higher.** In determining whether the provider's fee or the plan's payment is more reasonable, the IDR process considers what is charged for similar services in the same specialty in the same geographical area, and arbiters must consider the 80th percentile of billed charges – essentially what 80% of physicians in a particular region charge.
- **New Yorkers pay the price through higher premiums.** Reliance on the 80th percentile results in payments that tend to be significantly higher than the negotiated rates that insurers pay for in-network care or what Medicare reimburses. A 2019 DFS report found that the average IDR payment amount was 8% higher than the 80th percentile and a 2022 analysis found payments for nonemergency out-of-network services increased by 24%.

These inflated awards add to the cost of coverage.

- **Growing volume as providers gouge consumers & employers.** The escalating payment amounts reward providers for overusing the process and create an incentive to remain out-of-network. Since 2020, there has been a nearly 10-fold increase in the use of IDR, as the number of cases in New York has grown from 1,126 to over 10,200 in 2024.



Targeted Reforms to Contain Runaway Costs

The Executive Budget would redefine the benchmark from the 80th percentile to the 50th and establish a cap on payments to no greater than the 80th percentile. These are sensible reforms that will protect consumers and employers from out-of-network providers charging excessive prices that increase the cost of coverage.

Examples of Out-of-Control IDR Costs

*A provider was inexplicably awarded **\$315,848** for a scheduled surgery that had been approved by the plan, with an out-of-network payment of \$7,239. Despite the surgery being pre-authorized, the provider billed it as an emergency service and submitted the claim for IDR. The arbiter sided with the provider, requiring \$308,575 in additional payment without providing an explanation for the decision.*

*An out-of-network plastic surgeon that billed \$67,500 for the closure of a surgical wound compared to the health plan's in-network reimbursement rate of \$2,146. After submitting the claim to IDR, the surgeon received \$19,493 – **more than 1,000% above what Medicare typically pays** for this procedure.*

*An out-of-network **provider billed \$59,750** for remote neuromonitoring of a patient, which is \$57,077 more than the plan's in-network reimbursement of \$2,673. **Through IDR, they received \$45,372.***

Reforming NY's Surprise Billing Law Will:

- *Maintain Patient Protections*
- *Contain Excessive Provider Costs*
- *Make Health Care More Affordable*

INCLUDE PPGG Part T in the FY27 Budget